

REMARKS/ARGUMENTS

Applicants make this Amendment to address the outstanding issues raised by the Examiner in his Office Action dated March 7, 2003. Applicants respectfully request reconsideration of the above-referenced application in light of the amendments above and remarks that follow.

The Examiner rejects claims 1-6, 13-16, 19-26, 31, 32, 35-40, 43 and 44 under 35 U.S.C. § 102(a) as being unpatentable over Foy et al. ('255). Claims 1-44 are also rejected under 35 U.S.C. § 103(a) as being unpatentable over Overholt in view of Foy and claims 21, 35, 36 and 44 under 35 U.S.C. § 103(a) are rejected as being unpatentable over Foy. Claims 7-9, 11, 27 and 28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Foy in view of Lessard. Claims 10, 12, 29 and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Foy in view of Lessard and further in view of Overholt. Claims 17, 18, 33, 34, 41 and 42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Foy in view of Foy '065.

Applicants have amended the claims to address the concerns of the Examiner. In summary, what is common to both claims 1 and 23, which is not found in the prior art, is the wall alignment system as claimed. The wall alignment system includes one member, which extends along an interior of a wall and is oriented to cooperate with another member on the adjacent sidewall or end wall to engage each other and align the first wall locking member or latching means with the second wall locking member or latching means. This is an important distinction which allows alignment of the structures as defined in claim 1 or to slidably engage with each other as the walls are moved to upright positions as in claim 23.

Specifically, an inherent problem with the prior art is that, during latching, as one wall passes towards the other, they tend to displace each other. Although the locking mechanisms hold the walls in place relative to each other once locked, entirely in the upright position, because of the elastic nature of the containers, the walls tend to deform and to be deflected away from each other during the latching process.

In the prior art, because of the displacement of the walls, a four stage process was required to in effect hold and align the walls to each other at substantially upright position to effect locking

and/or latching. The claimed alignment means, by engaging the walls to each other, along an interior surface, ahead of the walls being fully upright, now aligns the remaining structure, including the locking means and the latching means so that the process becomes substantially hands free.

Turning specifically to the rejections, claims 1-6, 13-16 and 19-22 are rejected under 35 U.S.C. § 102(b) as being anticipated by Foy. Applicants respectfully traverse the rejection.

Foy is considered to teach the wall alignment means, including the lowermost delta shaped openings 84 and a second member of locking tab 68. These are considered by the Office Action to extend inwardly towards an interior of the container from an end wall.. However, as is clear from Fig. 3, the delta shaped openings 84 do not extend along an interior surface and therefore do not interact or cooperate with the locking tab 68 along the interior surface and therefore do not act to align other structure. Their primary purpose, as disclosed in Foy, is to in effect lock the walls together as they perform the same exact function as all the other locking tabs 68 and openings 84. The Office Action did recognize these identical structures as the locking system. Furthermore, as specifically required in claim 23, there are no receiving members of the wall alignment system as claimed, because the receiving members form an opening along the interior face of one of the walls. There is no structure of Foy along an interior face. All of the Foy structure acts within the wall. If there is any orientation to a receiving structure, it is perpendicular to the face of any wall. Accordingly, nothing in Foy teaches or suggests the claim structure and Applicants respectfully submit that claims 1 and 23 are allowable over Foy.

Claims 2-6, 13-16, 19-26, 31, 32 and 35-36 depend from claims 1 and 23 respectively and define patentable combinations in their own right as well as depending from allowable claims 1 and 23.

With respect to claim 37, Foy is considered to teach the support system. The Office Action considers the support to be the tongues 27 and the grooves 29. However, the structure of tongues 27 is in fact is the hinge system. It does not have a plurality of supports and support receiving members for receiving the support members when the walls are in the upright position. Tongues 27 are always in contact with separating grooves 29 and do not disengage when in the folded position as claimed. Otherwise, the hinge mechanism would come apart and would have to be

reattached each time. Accordingly, Foy does not teach the claimed support mechanism of claim 37 and Applicants submit that claim 37 is allowable over Foy.

Claims 38-40, 43 and 44 all depend either directly or indirectly from claim 37 and define patentable combinations in their own right and are allowable as well as depending from allowable claim 37.

Accordingly, Applicants submit that Foy does not anticipate any of the claims for the reasons discussed above and respectfully request the withdrawal of the rejection of claims 1-6, 13-16, 19-26, 31, 32, 35-40, 43 and 44.

Claims 1-44 are considered to be unpatentable over Overholt in view of Foy. Applicants respectfully traverse the rejection.

First, nothing in Overholt teaches the novel aligning means of claims 1 and 23. Therefore, the addition of Overholt does not overcome the deficiencies of Foy. Overholt teaches no aligning structure along an interior surface of the walls. There is nothing to guide or align the walls and maintain them in place for the latching mechanism. Everything in Overholt teaches away from the claimed invention by incorporating its auxiliary structure within the wall. Specifically, Overholt's aligning system (82, 84) is a structure that is formed within an edge of the end walls and does not extend along, and is not open to, the interior. It is only hindsight to modify the alignment system, hinge system and support system utilizing Overholt and Foy. Furthermore, the resulting structure would not be any structure along an interior surface, and neither teach nor suggest such a structure.

With respect to claim 37, nothing in Overholt teaches the claimed support structure disposed between the base and walls. As claimed, support members and support receiving members are formed at the mating point of the wall and base to which it is hingedly attached. Furthermore, there is nothing that shows such structures, which engage when the walls are in the upright position and are disengaged when the wall is in the folded position. Accordingly, nothing in Overholt overcomes the deficiencies of Foy and Applicants submit that claims 1-44 are allowable over this combination.

Claims 21, 35, 36 and 44 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Foy. Applicants respectfully traverse the rejection.

The Office Action concedes that the claimed support members and receiving members are not found between the two outermost hinges. It considers it to be an obvious expedient. However, claims 21, 35 and 36 depend from claims 1 and 23 respectively and include structure not found in Foy. As the structure is not found in Foy, Applicants submit that these claims are allowable as defining patentable combinations in their own right as well depending from allowable claims 1 and 23.

Claim 44 depends from claim 37 and is also free of support members as claimed. However, this emphasizes the novel structure of the support members as claimed in claim 38 and their ability to remove the need of the intermediate hinge components. The novel support structure as claimed in claim 38 lends itself to the novel structure of claim 44. Therefore, it is impermissible hindsight to state that the claims are obvious.

Claims 7-9, 11, 27 and 28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Foy in view of Lessard. Applicants respectfully traverse the rejection.

As conceded in the Office Action, Foy does not disclose a biased panel as a latching member. Lessard does nothing to overcome the deficiencies of Foy discussed above. Claims 7-9, 11, 27 and 28 depend from claims 1 and 23 respectively and define the claimed invention with greater particularity. Accordingly, these claims are allowable as defining patentable combinations in their own right as well as depending from allowable claims 1 and 23.

Claims 10, 12, 29 and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Foy in view of Lessard and further in view of Overholt. Applicants respectfully traverse the rejection.

Overholt relies on a structure which is purposely internal to the walls; its structure is not adaptable or combinable with Foy or Lessard. As clearly seen in Overholt, the portion of the living hinge relied upon in the Office Action does not extend to an outer rear surface of a biased member and an outer rear surface of an end wall for limiting the distance that the recited biased

member can deflect. It is all internal to the wall. Therefore, it does not include a member that extends from its outer rear surface for preventing deformation. While the patent of Overholz does disclose a biased member, even if its structure is considered a deformation prevention member, it does not extend between the outer rear surface of the biased panel and an outer rear surface of an end wall as recited in the claims.

Claims 17, 18, 33, 34, 41 and 42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Foy in view of Foy '065. It is conceded in the Office Action that Foy does not teach the stacking projections. However, Foy '065 is considered to teach such stacking. Applicants respectfully traverse the rejection.

Nothing in Foy '065 overcomes the deficiencies of the first Foy patent. There is no motivation for such a modification of Foy and even if there was it would not result in the claimed invention which includes the novel aligning means in a novel combination with the hinging means or, as in claim 1, novel locking means.

Applicants submit that in light of the above, the claims are in condition for allowance. If the Examiner is unable to issue an immediate Notice of Allowance, he is respectfully requested to telephone the undersigned attorney at (954) 667-7130 with a view to discussing any outstanding issues.

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Respectfully submitted,

By _____



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